

## **REMARKS**

### **STATUS OF THE CLAIMS**

Claims 18-20, 23-25, 27-29, and 41-64 remain in the case. Claims 18-20, 23-25, and 27-29 stand rejected. Claims 18 and 25 have been amended. Claims 41-66 have been added. No new matter has been added. Claims 1-17, 21-22, 26, and 30-40 have been cancelled. Applicants respectfully traverse the rejections of Claims 18-20, 23-25, and 27-29. New Claims 41-64 substantially encompass the subject matter of previously cancelled Claims 1-17 and 30-40, updated to reflect the amendments to Claims 18 and 25. The amendments are supported in paragraphs [0011]-[0013], [0049]-[0064], [0071], [0075]-[0077], [0094-0095], [0104], [0109], [0112], [0114], and [0127].

### **RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 101**

Claims 18-25 and 27-29 are rejected under 35 U.S.C. § 101 for nonstatutory subject matter. Applicants respectfully traverse this rejection in view of the present amendments and the following remarks. Applicants note that the Examiner previously withdrew a similar rejection under 35 U.S.C. § 101 in the Office Action mailed October 14, 2008 in view of Applicants' remarks in the Office Action Response entered June 4, 2008. (Office Action of October 14, 2008, pg. 20 ¶ 2 – pg. 21, ¶ 1). Applicants respectfully refer the Examiner to the above referenced remarks describing the statutory nature of the claims at issue, and the useful, concrete, and tangible results of the claims at issue.

Applicants further respectfully submit that as amended, each of the claims at issue are clearly tied to a particular machine or apparatus, and are statutory under 35 U.S.C. § 101 based on the “machine-or-transformation test” affirmed by the Court of Appeals for the Federal Circuit in the recent *In re Bilski* case. (*In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008)). In a memo to the Patent Examining Corps dated January 7, 2009, Deputy Commissioner for Patent Examination Policy John J. Love announced that the “machine-or-transformation test” should now be used to determine patent eligibility under 35 U.S.C. § 101, the test being “whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular

article to a different state or thing.” (John J. Love, *Guidance for Examining Process Claims in view of In re Bilski*, January 7, 2009, available at [http://www.uspto.gov/web/offices/pac/dapp/opla/documents/bilski\\_guidance\\_memo.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/documents/bilski_guidance_memo.pdf)).

Each of the claims at issue is now tied to a storage system, which is clearly a machine or apparatus and statutory under 35 U.S.C. § 101. For example, Claim 18, as amended, now recites “assisting an end-user **of a storage system** in generating a failure prediction algorithm **for the storage system**,” and “generating machine-readable...the machine-readable code configured to **execute on the storage system**.” Applicants respectfully submit that Claims 18-25 and 27-29, as well as new Claims 41-66 satisfy the “machine-or-transformation test” and are statutory under 35 U.S.C. § 101 and request that the rejection of Claims 18-25 and 27-29 again be removed.

#### RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 18-25, and 27-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over “Application of Fuzzy Logic to Reliability Engineering” (hereinafter *Bowles*), in view of “Improved Disk Drive Failure Warnings” (hereinafter *Hughes*), “Fuzzy Rule-based Expert System for Power System Fault Diagnosis” (hereinafter *Monsef*), U.S. Patent No. 5,832,467 to Wavish (hereinafter *Wavish*), “Fixed Time Life Tests Based on Fuzzy Life Characteristics” (hereinafter *Kanagawa*), “Fuzzy Fundamentals” (hereinafter *Cox*), “Fuzzy Guidance Controller for an Autonomous Boat” (hereinafter *Vaneck*), and/or “A Layer Based Computational Model Plus a Database Structure as a Framework to Build Parallel Fuzzy Controllers” (hereinafter *Andrade*).

Applicants respectfully note at the outset that in order to establish a prima facie case of obviousness, it is the burden of the Examiner to clearly articulate the reason(s) why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. *See MPEP* § 2141.III. As stated by the U.S. Supreme Court in *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), the analysis supporting a rejection made under 35 U.S.C. § 103 should be made explicit. Moreover, the Court also stated in *KSR* that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* at 1740-1742.

The U.S. Supreme Court in *KSR* upheld the use of the Graham Factors to determine obvious, the Graham Factors being: (1) the scope and content of the prior art; (2) the differences between the prior art and the claimed invention; (3) the level of ordinary skill in the art; and (4) any relevant secondary considerations, such as commercial success, long-felt need, and the failure of others. *See KSR* at 1734; *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18, 86 S.Ct. 684, 15 L.Ed.2d 545. Applicants respectfully submit that an analysis of the Graham Factors clearly shows that the cited art does not render the claimed invention obvious, and respectfully request that if the Examiner disagrees with the Applicants, that further rejections include a Graham Factor analysis for each rejection under 35 U.S.C. § 103, as mandated by *KSR* and *MPEP* § 2141. Applicants respectfully assert that the claims at issue are not obvious. First, not all elements of the amended claims are taught or suggested in the art of record, and second, the art of record comes from vastly different fields than does the Applicants’ claimed invention and teaches away from their combination.

Applicants respectfully submit that *Bowles*, *Hughes*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* do not teach “assisting an **end-user of a storage system in generating a failure prediction algorithm for the storage system**, the failure prediction algorithm **comprising fuzzy logic rules.**” The cited art further does not teach “**generating machine-readable code from the stored failure prediction algorithm** in response to input **from an end-user**, the machine-readable code configured to **execute on the storage system**,” or “**tuning the failure prediction algorithm dynamically at runtime** by adjusting a fuzzy variable definition **in response to input from an end-user of the storage system.**” Applicants further submit that *Bowles*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* are nonanalogous art, that they teach away from their combination, and that these differences between the prior art and the claims at issue render the claims at issue nonobvious and allowable under 35 U.S.C. § 103(a).

To highlight the differences between the present invention and the cited prior art, as mandated by *Graham*, a summary of the claimed invention and of the prior art may be useful. Generally, the claimed invention seeks to overcome problems of the prior art associated with the

maintenance and storage of data within a storage system and with the development of failure prediction software for the storage system. (*Specification*, ¶ [0001]). For example, in the art, complicated software routines written by experienced software engineers use a high number of input variables to provide stability reports for storage systems. This means that the algorithms are determined by software engineers and not by end-users that are most familiar with storage systems, and that the algorithms are not customizable to unique circumstances, especially dynamically at runtime. End-users must use whatever algorithm the software engineers have established, and must wait through a lengthy development cycle for updates, with no guarantee that a future release will bring any changes, much less customized changes based on the needs of the end-user. Additionally, conventional software uses discrete threshold values which often do not adequately reflect the range of operating conditions in which storage systems operate, generating costly false-positives.

Independent Claim 18, as amended, specifically requires “assisting an **end-user of a storage system** in generating a failure prediction algorithm **for the storage system**, the failure prediction algorithm comprising **fuzzy logic rules**, the failure prediction algorithm stored in a **natural language format**; generating machine-readable code from the stored failure prediction algorithm **in response to input from an end-user**, the machine-readable code configured to **execute on the storage system**; testing the machine-readable code with sample data to produce a result **in response to input from an end-user**; selectively revising the failure prediction algorithm **in response to input from an end-user** such that the result corresponds to an expected result; and **tuning the failure prediction algorithm dynamically at runtime** by adjusting a fuzzy variable definition **in response to input from an end-user of the storage system**.” (emphasis added).

Independent Claim 25, as amended, specifically requires “gathering performance data **for a storage system**; executing a failure prediction algorithm on the performance data to produce a result, the failure prediction algorithm comprising **fuzzy logic rules generated by an end-user of the storage system**, the fuzzy logic rules defined by **conditional statements that include subjects, adjectives, and verbs familiar to personnel in the storage system field**; tuning the failure prediction algorithm **dynamically at runtime** by **adjusting a fuzzy variable definition**

in response to **input from an end user of the storage system**; and selectively **forecasting failure** of one or more components of the storage system in response to the result.” (emphasis added).

New independent Claim 41 is an apparatus for developing failure prediction software for a storage system that comprises an editor, a code generator, a test module, a revision module, and an interface. New independent Claim 47 is an apparatus for predicting component failure within a storage system comprising a performance monitor, a processor, a determination module, and an interface. New independent Claim 52 is a system for predicting component failure within a storage system comprising a controller, a communication module, a drive mechanism, and an analysis module. New independent Claim 56 is an apparatus for developing failure prediction software for a storage system. New independent Claim 61 is an article of manufacture comprising a program storage medium readable by a processor and embodying one or more instructions executable by a processor to perform a method for developing failure prediction software for a storage system.

### *The Scope and Content of the Prior Art*

#### *Summary of Bowles*

*Bowles* describes several models for characterizing system reliability using fuzzy arithmetic. (*Bowles*, Abstract). *Bowles* uses general examples, such as “Hans ate  $v$  eggs for breakfast,” focusing on the mechanics of fuzzy arithmetic instead of specific applications. (*Bowles*, pg. 438, ¶ 5). Two specific areas of art mentioned in *Bowles* are the nuclear and aerospace industries. (*Bowles*, pg. 442, ¶ 6).

*Bowles* does not address failure prediction algorithms or storage systems, addressing instead general system reliability and the general probability of events. (*Bowles*, Abstract; *Bowles*, pg. 439, col. 2). *Bowles* further does not teach a method for assisting an end-user in generating a failure prediction algorithm comprising fuzzy logic rules, as required by the claims at issue, not mentioning an end-user, a storage system, a failure prediction algorithm, revising a failure prediction algorithm, or tuning a failure prediction algorithm dynamically at runtime.

### Summary of *Hughes*

*Hughes* proposes various algorithms for SMART failure prediction systems to predict failure in disk-drives. (*Hughes*, Abstract). The algorithms proposed in *Hughes* are designed to be run on as microprocessor firmware on a disk-drive. (*Hughes*, Abstract).

The Office Action suggests that “running the ‘SMART’ application of *Hughes*” is equivalent to generating machine-readable code from the stored failure prediction algorithm in response to user input as required by Claim 18. (Office Action, Page 4, ¶ 1).

Applicants respectfully submit that running an application is not equivalent to “generating machine-readable code from the stored failure prediction algorithm” of Claim 18. The microprocessor of *Hughes* does run the SMART failure warning algorithm, which presumably comprises machine-readable code. This does not necessarily imply that the SMART failure warning algorithm was compiled, as device level microprocessor code is often written directly as machine readable code and not compiled. Even if it was compiled, *Hughes* does not teach compiling a failure prediction algorithm comprising fuzzy logic rules stored in a natural language format into machine readable code. For an element to be considered inherent, it must *necessarily be present* in the reference. *See MPEP 2112.IV.*

In direct contrast to the claims at issue, *Hughes* teaches that a storage drive itself measures up to 30 failure attributes, and that this technology is “manufacturer proprietary.” (*Hughes*, pg. 351, C1:20-43). Because the technology is proprietary, *Hughes* does not teach what, if anything is compiled, and clearly does not teach generating machine-readable code from a natural language format failure prediction algorithm comprising fuzzy logic rules. It is more likely that the SMART algorithm is implemented as a combination of hardware sensors and low level instructions, however *Hughes* expressly states that the implementation of the technology is proprietary, and is thus unknown. *Hughes* cannot teach something that is unknown. *Hughes* does not teach, suggest, or even mention compiling, and clearly does not teach generating machine-readable code from a stored failure prediction algorithm in a natural language format.

### Summary of *Monsef*

*Monsef* demonstrates a component oriented fuzzy expert system for power system fault diagnosis. (*Monsef*, Abstract). *Monsef* teaches the diagnosis of existing faults in a power system by modeling the power system and comparing simulation results with actual system information to diagnose a power system fault. (*Monsef*, pg. 186, ¶ 4).

*Monsef* does not teach testing machine-readable code with sample data to produce a result in response to end-user input, as required by the claims at issue. Applicants respectfully submit that modeling a power system and running a simulation to **diagnose an existing** power system fault does not read on testing a machine-readable code failure prediction algorithm with **sample data** to produce a result in response to end-user input. *Monsef* does not teach machine-readable code, a failure prediction algorithm, or sample data.

### Summary of *Wavish*

*Wavish* teaches a rule-based data processing apparatus for optimization of behavioral prediction in Real Time ABLE (RTA) autonomous agents such as robots, artificial intelligences, and the like. (*Wavish*, col. 1, ll. 4-67). *Wavish* teaches the use of genetic algorithms that generate chromosomal representations. (*Wavish*, Abstract; *Wavish*, col. 2, ll. 47-51).

*Wavish* teaches that autonomous agents are defined by a first set of rules and a second set or rules. (*Wavish*, col. 2, ll. 5-26) The second set of rules predicts the agent state changes caused by the first rules. (*Id.*). The autonomous agent monitors the accuracy of the second set of rules and modifies the second set of rules to increase their accuracy. (*Id.*).

The autonomous rule modification of *Wavish* does not read on selectively revising a failure prediction algorithm in response to end-user input such that the result corresponds to an expected result for several reasons. *Wavish* does not teach revising a failure prediction algorithm, but instead teaches modifying behavioral rules. Additionally, even if *Wavish* did teach revising a failure prediction algorithm, *Wavish* teaches that the autonomous agent modifies the rules itself, in response to its' own monitoring of the rules, not in response to end-user input. In direct contrast to the present invention, the entire purpose of RTA agents such as robots,

artificial intelligences, and similar rule-based systems as described in *Wavish* is to minimize user interaction and control.

### Summary of *Kanagawa*

*Kanagawa* teaches calculating the reliability, or mean time between failures (MTBF), of a group by letting a sample from the group run until failure. (*Kanagawa*, Abstract). *Kanagawa* then calculates whether the MTBF is acceptable or not using fuzzy logic sets. (*Kanagawa*, Abstract; *Kanagawa*, col. 2, ll. 10-16).

The reliability demonstration test of *Kanagawa* does not use a failure prediction algorithm to predict failure, it lets devices run until they do fail, thereby demonstrating reliability. The reliability demonstration does not involve any prediction, and *Kanagawa* does not teach failure prediction. *Kanagawa* teaches the monitoring of failures in “fixed-time life tests,” which is fundamentally different than generating a failure prediction algorithm. (*Kanagawa*, col 2, ll. 10-16).

Applicants further respectfully submit that even if *Kanagawa*’s reliability demonstration were a failure prediction algorithm, it does not comprise fuzzy logic rules. *Kanagawa* does teach the use of fuzzy sets in deciding whether or not a lot has an acceptable MTBF. Fuzzy sets are fundamentally different than fuzzy logic rules, and their use in *Kanagawa* is also different than in Claim 25.

Fuzzy logic rules are logical expressions that operate on fuzzy sets (also known as fuzzy variables) to produce an output, much as an algebraic expression operates on a variable. See paragraphs [0052] and [0102]-[0118] of the Specification for a detailed description of fuzzy logic rules and fuzzy logic sets/variables. *Kanagawa* teaches the use of fuzzy logic sets in determining whether a group of devices is acceptable. Applicants submit, however, that *Kanagawa* does not teach fuzzy logic rules, and clearly does not teach a failure prediction algorithm that comprises fuzzy logic rules. *Kanagawa*’s fuzzy logic sets are not fuzzy logic rules, are not stored in a natural language format, and do not predict failure.

The Office Action also suggests that *Kanagawa* teaches the “gathering performance data for a storage system” of Claim 25 with “the ability to have ‘n items be drawn at random.’”



(Office Action, pg. 7, ¶ 1; *Kanagawa*, col. 2, ll. 7-16). The  $n$  items of *Kanagawa* are a sample of a group or “lot.” (*Kanagawa*, col. 2, ll. 7-16). Selecting a random sample of items from a lot is clearly not gathering performance data for a storage system. *Kanagawa* does not teach a storage system, or gathering performance data for that storage system.

The Office Action further suggests that *Kanagawa* teaches “executing a failure prediction algorithm on the performance data to produce a result, the failure prediction algorithm comprising fuzzy logic rules. (Office Action, pg. 7, ¶ 1). As discussed above, *Kanagawa* lacks a failure prediction algorithm comprising fuzzy logic rules. Applicants further submit that *Kanagawa* does not teach **executing** a failure prediction algorithm on **performance data** to produce a **result**. Applicants respectfully submit that *Kanagawa* does not teach a failure prediction algorithm and further that *Kanagawa* does not teach executing anything.

The Office Action also suggests that *Kanagawa*’s teaching that “the coefficients  $a_{ij}$  must be chosen so that the membership functions are continuous” is equivalent to “tuning the failure prediction algorithm by adjusting a fuzzy variable definition” of Claim 25. (Office Action, pg. 7, ¶ 1). Applicants respectfully submit that defining a polynomial membership function as continuous is not equivalent to tuning a failure prediction algorithm by adjusting a fuzzy variable definition. *Kanagawa* is merely stating the fact that the membership functions (examples of which are illustrated in *Kanagawa*’s Table 1 on page 319) must be continuous. Even if this could be construed as a fuzzy variable definition, *Kanagawa* does not adjust the definition (it “**must**” be continuous), and clearly does not tune a failure prediction algorithm. At most, *Kanagawa* defines a membership function for an acceptability decision, but clearly does not tune a failure prediction algorithm by adjusting a fuzzy variable definition.

#### Summary of Cox

*Cox* provides a general description of how fuzzy logic may be used in control systems such as anti-lock braking systems and steam turbines. (*Cox*, pg. 58, col. 1, ¶ 4; *Cox*, pg. 59, col. 1, ¶ 2). *Cox* does not teach fuzzy logic rules comprising linguistic variables having less than four terms. In the example from *Cox* cited in the Office Action, the variable ‘temperature’ may have

**at least six terms** “cold, cool, moderate, warm, hot, very hot,” not **less than four terms** or **three terms** as required by Claims 19 and 20. (Office Action, pg. 11, ¶ 4; *Cox*, pg. 58, col. 2, ¶ 2).

#### Summary of *Vaneck*

*Vaneck* describes a fuzzy controller used to chart paths for a small autonomous boat prototype vehicle using GPS. (*Vaneck*, Abstract; *Vaneck*, pg. 45, ¶ 3).

#### Summary of *Andrade*

*Andrade* teaches the use of parallel fuzzy processors in industrial process control. (*Andrade*, Abstract).

#### *The Differences between the Cited Art and the Claimed Invention*

In view of the above described differences between the claimed invention and the art of record under the *Graham* analysis, Applicants respectfully submit that the claims at issue are not obvious. First, not all elements of the amended claims are taught or suggested in the art of record, and second, the art of record teaches away from the proposed combination, and comes from vastly different fields than does the Applicants’ claimed invention and is clearly nonanalogous art.

Applicants respectfully submit that *Bowles*, *Hughes*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* do not teach “assisting **an end-user of a storage system** in generating a failure prediction algorithm **for the storage system**, the failure prediction algorithm comprising **fuzzy logic rules**, the failure prediction algorithm stored in a **natural language format**” as recited in amended Claim 18 (emphasis added). Applicants further submit that *Bowles*, *Hughes*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* do not teach “**generating machine-readable code** from the stored failure prediction algorithm **in response to input from an end user**, the machine-readable code configured to **execute on the storage system**,” “testing the machine-readable code with sample data to produce a result in response to input **from an end-user**,” “selectively revising the failure prediction algorithm in response to input **from an end-user** such that the result corresponds to an expected result,” or “tuning the failure prediction

algorithm **dynamically at runtime** by adjusting a fuzzy variable definition in response to input from an **end-user of the storage system**” as recited in amended Claim 18 (emphasis added).

### Teaching Away

Because the *Hughes* reference clearly teaches that the technology is proprietary, and is not available to end-users, as described above, *Hughes* **teaches away** from end-users of a storage system generating a failure prediction algorithm for the storage system and tuning the failure prediction algorithm dynamically at runtime. By teaching that failure attributes should be manufacturer proprietary, *Hughes* directly **teaches away** from the claimed invention as amended. *Hughes* teaches the solutions already available in the art as described above, depending on experienced software engineers and their development cycles to define “manufacturer proprietary” warning algorithms.

Further, *Wavish* teaches away from selectively revising a failure prediction algorithm. *Wavish* teaches that the autonomous agent modifies the rules itself, in response to its’ own monitoring of the rules, not in response to end-user input. (*Wavish*, col. 2, ll. 5-26). As described above, the entire purpose of RTA agents such as robots, artificial intelligences, and similar rule-based systems as described in *Wavish* is to minimize user interaction and control, and *Wavish* teaches away from such end-user interaction.

The *Kanagawa* reference also teaches away from the claimed invention. *Kanagawa* clearly teaches letting devices run until they fail, thereby demonstrating reliability, teaching away from predicting their failure at all. *Kanagawa* teaches the monitoring of failures in “fixed-time life tests,” directly teaching away from generating a failure prediction algorithm. (*Kanagawa*, col. 2, ll. 10-16).

The *Cox* reference further teaches away from the claimed invention. While Claims 19 and 20 recite that “the fuzzy logic rules comprise linguistic variables having less than four terms” or alternatively “less than three terms.” *Cox* directly teaches away from this limitation, teaching, in the example from *Cox* cited in the Office Action, that the variable ‘temperature’ may have **at least six terms** “cold, cool, moderate, warm, hot, very hot,” not **less than four terms** or **three terms** as required by Claims 19 and 20. (Office Action, pg. 11, ¶ 4; *Cox*, pg. 58, col. 2, ¶ 2).

### Nonanalogous Art

Applicants further submit that *Bowles*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* are nonanalogous art. As quoted in M.P.E.P § 2143, the recent Supreme Court case of *KSR v. Teleflex* requires that, when determining “whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue[,] to facilitate review, this analysis should be made explicit.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). Even if *Bowles*, *Hughes*, *Monsef*, *Wavish*, *Kanagawa*, *Cox*, *Vaneck*, and *Andrade* taught each and every element of the claimed invention, the Office Action has made no explicit analysis of why one of ordinary skill in the art of storage systems would look to the nonanalogous and disparate fields of the nuclear and aerospace industries, power systems, RTA autonomous agents, anti-lock braking systems, steam turbines, and small autonomous boats, or why such matter “logically would have commended itself to an inventor’s attention in considering his problem.” *In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992).

Applicants respectfully submit that the claimed invention is a pioneering invention. The art cited in the Office Action clearly indicates that no one in the art of data storage systems has taught or suggested the use of fuzzy logic in a storage system failure prediction algorithm, much less assisting end users of storage systems to generate their own customized fuzzy logic failure prediction algorithms for use on their own storage systems, and tuning the algorithm dynamically at runtime.

### Impermissible Hindsight

The discovery of the cited art seems to have come from a search that is based on impermissible hindsight, the only factor linking search results being Applicants’ novel and non-obvious use of fuzzy logic for customized failure prediction of data storage systems. Appellants respectfully submit that if the prior art of record so clearly demonstrates the obviousness of the claimed invention, a single reference would teach more than just one or two elements of the claimed invention. The sheer number of references used from such extreme disparate fields of art seems to indicate that the claim terms were used in a key word search of the prior art, likely

for the term “fuzzy logic.” For certain claims up to six different references are relied upon, and every rejection relies on at least four different references. Once a key word hit was found, there appears to be little analysis performed to determine the applicability of relevance of the reference, or why one of ordinary skill in the art of storage systems would look to the reference. The present group of prior art references is the third such group relied upon, and none of the groups teach each and every element of the claims, or relate remotely to storage devices. Appellants respectfully assert that because such analysis is improper the rejections should be overturned.

*The Level of Ordinary Skill in the Art*

*MPEP* § 2141.II.C states that:

“The person of ordinary skill in the art is a hypothetical person who is presumed to have known the relevant art at the time of the invention. Factors that may be considered in determining the level of ordinary skill in the art may include: (1) "type of problems encountered in the art;" (2) "prior art solutions to those problems;" (3) "rapidity with which innovations are made;" (4) "sophistication of the technology; and" (5) "educational level of active workers in the field. In a given case, every factor may not be present, and one or more factors may predominate." In re GPAC, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995); Custom Accessories, Inc. v. Jeffrey-Allan Industries, Inc., 807 F.2d 955, 962, 1 USPQ2d 1196, 1201 (Fed. Cir. 1986); Environmental Designs, Ltd. V. Union Oil Co., 713 F.2d 693, 696, 218 USPQ 865, 868 (Fed. Cir. 1983).”

Typical problems encountered in the art of storage systems include formatting and preparing storage devices for use, installing and replacing storage devices, configuring storage device arrays, and the like. Prior art solutions to these problems include the use of generic device diagnostics like the SMART system described in the *Hughes* reference. A person having ordinary skill in the art would likely not know what fuzzy logic was, and would clearly not look to the fields of the nuclear and aerospace industries, power systems, RTA autonomous agents, anti-lock braking systems, steam turbines, and small autonomous boats. Even if the cited art did teach or suggest the claimed invention, which it clearly does not as described above, a person having ordinary skill in the art would clearly not look to these disparate areas for solutions to storage system problems, but would look to traditional storage system solutions.

Graham Factors Indicate Non-Obviousness

As described above, each of the Graham Factors lead to a clear conclusion that the claimed invention is nonobvious in view of *Bowles, Hughes, Monsef, Wavish, Kanagawa, Cox, Vaneck, and Andrade*. Applicants respectfully submit that *Bowles, Hughes, Monsef, Wavish, Kanagawa, Cox, Vaneck, and Andrade* do not teach or suggest “assisting an **end-user of a storage system in generating a failure prediction algorithm for the storage system, the failure prediction algorithm comprising fuzzy logic rules.**” The cited art further does not teach “**generating machine-readable code from the stored failure prediction algorithm** in response to input **from an end-user**, the machine-readable code configured to **execute on the storage system,**” or “**tuning the failure prediction algorithm dynamically at runtime** by adjusting a fuzzy variable definition **in response to input from an end-user of the storage system.**” Applicants further submit that *Bowles, Monsef, Wavish, Kanagawa, Cox, Vaneck, and Andrade* are nonanalogous art, that they teach away from their combination, that they were assembled using impermissible hindsight, and that these differences between the prior art and the claims at issue render the claims at issue nonobvious and allowable under 35 U.S.C. § 103(a).

Applicants further submit that although the remarks have focused specifically on the limitations of independent Claim 18 as representative of similar limitations in independent Claims 25, 41, 47, 52, 56, and 61, that independent Claims 25, 41, 47, 52, 56, and 61 contain further limitations that are patentably non-obvious. Given that dependent Claims 19-20, 23-24, 27-29, 42-46, 48-51, 53-55, 57-61, and 63-66 depend from Claims 18, 25, 41, 47, 52, 56, and 61, Applicants respectfully submit that Claims 19-20, 23-24, 27-29, 42-46, 48-51, 53-55, 57-61, and 63-66 are also patentable over *Bowles, Hughes, Monsef, Wavish, Kanagawa, Cox, Vaneck, and Andrade*. See *in re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Applicants respectfully request that the rejection of Claims 18-25 and 27-29 under 35 U.S.C. § 103(a) be withdrawn and that Claims 18-25, 27-29, and 41-66 be deemed allowable.

### **CONCLUSION**

As a result of the presented remarks, Applicant asserts that Claims 18-20, 23-25, 27-29, and 41-66 are patentable and in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the independent and dependent claims enumerated above, Applicants respectfully request that the Examiner notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

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